

8-14-74517

REQUEST FOR JUDICIAL INTERVENTION

UCS-840 (7/2012)

Supreme COURT, COUNTY OF Nassau

Index No: 7805/14 Date Index Issued: 04/15/2014

CAPTION: Enter the complete case caption. Do not use et al or et ano. If more space is required, attach a caption rider sheet.

PETER MERGENTHALER

R.J.I. FEE PAID
Judith A. Pascale
Suffolk County Clerk

Plaintiff(s)/Petitioner(s)

For Court Clerk Use Only:

IAS/Entry Date

Judge Assigned

RJI Date

-against-

SUSAN F. LILLYWHITE and DOUGLAS ELLIMAN REAL ESTATE

Defendant(s)/Respondent(s)

NATURE OF ACTION OR PROCEEDING: Check ONE box only and specify where indicated.**MATRIMONIAL**☐ ContestedNOTE: For all Matrimonial actions where the parties have children under the age of 18, complete and attach the **MATRIMONIAL RJI Addendum**.
For Uncontested Matrimonial actions, use RJI form UD-13.**TORTS**☐ Asbestos☐ Breast Implant☐ Environmental: (specify)☐ Medical, Dental, or Podiatric Malpractice☐ Motor Vehicle☐ Products Liability: (specify)☒ Other Negligence: SLIP AND FALL ON SNOW AND ICE (specify)☐ Other Professional Malpractice: (specify)☐ Other Tort: (specify)**OTHER MATTERS**☐ Certificate of Incorporation/Dissolution [see NOTE under Commercial]☐ Emergency Medical Treatment☐ Habeas Corpus☐ Local Court Appeal☐ Mechanic's Lien☐ Name Change☐ Pistol Permit Revocation Hearing☐ Sale or Finance of Religious/Not-for-Profit Property☐ Other: (specify)**COMMERCIAL**☐ Business Entity (including corporations, partnerships, LLCs, etc.)☐ Contract☐ Insurance (where insurer is a party, except arbitration)☐ UCC (including sales, negotiable instruments)☐ Other Commercial: (specify)NOTE: For Commercial Division assignment requests [22 NYCRR § 202.70(d)], complete and attach the **COMMERCIAL DIV RJI Addendum**.**REAL PROPERTY:** How many properties does the application include?☐ Condemnation☐ Mortgage Foreclosure (specify):☐ Residential☐ Commercial

Property Address:

Street Address

City

State

Zip

NOTE: For Mortgage Foreclosure actions involving a one- to four-family, owner-occupied, residential property, or an owner-occupied condominium, complete and attach the **FORECLOSURE RJI Addendum**.☐ Tax Certiorari - Section: Block: Lot:☐ Tax Foreclosure☐ Other Real Property: (specify)**SPECIAL PROCEEDINGS**☐ CPLR Article 75 (Arbitration) [see NOTE under Commercial]☐ CPLR Article 78 (Body or Officer)☐ Election Law☐ MHL Article 9.60 (Kendra's Law)☐ MHL Article 10 (Sex Offender Confinement-Initial)☐ MHL Article 10 (Sex Offender Confinement-Review)☐ MHL Article 81 (Guardianship)☐ Other Mental Hygiene: (specify)☐ Other Special Proceeding: (specify)**STATUS OF ACTION OR PROCEEDING:** Answer YES or NO for EVERY question AND enter additional information where indicated.

YES NO

Has a summons and complaint or summons w/notice been filed?

☒☐

If yes, date filed: 04/15/2014

Has a summons and complaint or summons w/notice been served?

☒☐

If yes, date served: 04/14/2014

Is this action/proceeding being filed post-judgment?

☐☐

If yes, judgment date:

- ☐ Order to Show Cause
☐ Other Ex Parte Application
☐ Poor Person Application
☒ Request for Preliminary Conference
☐ Residential Mortgage Foreclosure Settlement Conference
☐ Writ of Habeas Corpus
☐ Other (specify):

Relief Sought: _____
 Relief Sought: _____
 Relief Sought: _____

Return Date: _____
 Return Date: _____
 Return Date: _____

RELATED CASES:

List any related actions. For Matrimonial actions, include any related criminal and/or Family Court cases. If additional space is required, complete and attach the RJJ Addendum. If none, leave blank.

Case Title	Index/Case No.	Court	Judge (if assigned)	Relationship to Instant Case

PARTIES:

For parties without an attorney, check "Un-Rep" box AND enter party address, phone number and e-mail address in space provided. If additional space is required, complete and attach the RJJ Addendum.

Un-Rep	Parties:	Attorneys and/or Unrepresented Litigants:	Issue Joined (Y/N):	Insurance Carrier(s):
<input type="checkbox"/>	MERGENTHALER Last Name PETER First Name Primary Role: Plaintiff Secondary Role (if any):	HACKETT Last Name PATRICK J. HACKETT, ESQ. First Name Firm Name 585 Stewart Avenue, Suite 546 Street Address Garden City City New York State 11530 Zip +1 (516) 248-8877 Phone Fax e-mail	<input checked="" type="radio"/> YES <input type="radio"/> NO	
<input type="checkbox"/>	LILLYWHITE Last Name SUSAN F. First Name Primary Role: Defendant Secondary Role (if any):	BELLO & LARKIN ESQS. Last Name First Name Firm Name 150 Motor Parkway, Suite 405 Street Address Hauppauge City New York State 11788 Zip 631300-496 Phone Fax e-mail	<input type="radio"/> YES <input checked="" type="radio"/> NO	
<input type="checkbox"/>	DOUGLAS ELLIMAN REAL ESTATE Last Name First Name Primary Role: Defendant Secondary Role (if any):	KERN Last Name MICHAEL First Name McCARTHY & ASSOCIATES Firm Name One Huntington Quadrangel, Suite 2C18 Street Address Melville City New York State 11747 Zip +1 (631) 756-2024 Phone Fax e-mail	<input checked="" type="radio"/> YES <input type="radio"/> NO	
<input type="checkbox"/>	Last Name First Name Primary Role: Secondary Role (if any):	Last Name First Name Firm Name Street Address City State Zip Phone Fax e-mail	<input type="radio"/> YES <input checked="" type="radio"/> NO	

I AFFIRM UNDER THE PENALTY OF PERJURY THAT, TO MY KNOWLEDGE, OTHER THAN AS NOTED ABOVE, THERE ARE AND HAVE BEEN NO RELATED ACTIONS OR PROCEEDINGS, NOR HAS A REQUEST FOR JUDICIAL INTERVENTION PREVIOUSLY BEEN FILED IN THIS ACTION OR PROCEEDING.

Dated: 10/08/2014

Michael D. Kern

SIGNATURE

MICHAEL D. KERN

PRINT OR TYPE NAME

ATTORNEY REGISTRATION NUMBER

Print Form

Gold, Benes, LLP
My eLaw [Logout]

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MERGENTHALER, PETER

v.

LILLYWHITE, SUSAN F.

SUPREME COURT
SUFFOLK COUNTY

Index Number:

7805/2014

Case Status: ACTIVE

[ORDER eCOPY](#)[Case Details](#)[Appearances](#)[Motions](#)[Attorneys](#)[Case Details](#)[Appearances](#)[Motions](#)[Attorneys](#)[Print This Page](#)[Search Again](#)Plaintiff(s): *MERGENTHALER, PETER*Defendant(s): *LILLYWHITE, SUSAN F. AND
DOUGHLAS ELLIMAN REAL ESTATE*

This *OTHER TORTS* case is a civil action for *NON-MONETARY RELIEF*. The action is currently assigned to Judge *ANDREW G. TARANTINO, JR.* . The court considers this case to be a *STANDARD* case.

On *NOVEMBER 13, 2014* a Request for Judicial Intervention (RJI) was filed with the Clerk's Office in connection with *A PARTY'S REQUEST FOR A PRELIMINARY CONFERENCE*. Based upon this filing date, the court's Standards and Goals for the processing of this type of case are as follows: the Note of Issue (NOI) should be filed by *NOVEMBER 13, 2015*. and the case should be resolved by *FEBRUARY 13, 2017*. These deadlines represent general goals. Actual deadlines shall be those set by the assigned Justice in a preliminary conference or other order.

As of the current date, the court has no record of a Note of Issue (NOI) being filed in this case.

8-14-74517

Index No. 14-7805

Date of purchase

and filing: _____

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

-----x
PETER MERGENTHALER,

Plaintiff(s),

-against-

SUSAN F. LILLYWHITE and DOUGLAS
ELLIMAN REAL ESTATE,

-----x
Defendant(s).

Plaintiff designates
Suffolk County as the
place of trial

The basis of the venue is
Plaintiff's residence

SUMMONS

Plaintiff resides at
3 Wood Edge Court
Water Mill, NY 11976
County of Suffolk

To the Above-Named Defendant(s):

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the plaintiff's attorney within 20 days after the service of this Summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: Garden City, New York
April 14, 2014

Yours, etc.,



PATRICK J. HACKETT

Attorney for Plaintiff(s)

Office and P.O. Address

585 Stewart Avenue, Suite 546

Garden City, New York 11530

(516) 248-8877

TO:

SUSAN F. LILLIWHITE
90 Jennings Avenue
Southampton, NY 11968

DOUGLAS ELLIMAN REAL ESTATE
70 Jobs Lane
Southampton, NY 11968

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

-----X
PETER MERGENTHALER,

Plaintiff,

Index No. _____

- against -

VERIFIED COMPLAINT

SUSAN F. LILLYWHITE and DOUGLAS
ELLIMAN REAL ESTATE,

Defendant.
-----X

Plaintiff, by his attorney, PATRICK J. HACKETT, complaining of the defendant(s)
herein, respectfully show to this Court and allege:

AS AND FOR A FIRST CAUSE OF ACTION

1. That at all times hereinafter mentioned, the plaintiff was and still is a resident of the
County of Suffolk and State of New York.

2. That at all times hereinafter mentioned, defendant, Susan F. Lillywhite (hereinafter
"Lillywhite"), was and still is a resident of the County of Suffolk and State of New York.

3. That at all times hereinafter mentioned, defendant, Douglas Elliman Real Estate,
(hereinafter "Elliman"), was a domestic corporation duly authorized to do business and doing
business in the State of New York.

4. That at all times hereinafter mentioned, defendant, Elliman, was a limited liability
company duly authorized to do business and doing business in the State of New York.

5. That at all times hereinafter mentioned, defendant, Lillywhite, was the owner of the
premises 70 Jobs Lane, Southampton, New York 11968.

6. That at all times hereinafter mentioned, defendant, Elliman, rented the premises located at 70 Jobs Lane, Southampton, New York 11968 from defendant, Lillywhite.

7. That at all times hereinafter mentioned, defendant, Lillywhite, owned, maintained and controlled the premises known as 70 Jobs Lane, Southampton, New York 11968.

8. That at all times hereinafter mentioned, defendant, Elliman, maintained and controlled the premises known as 70 Jobs Lane, Southampton, New York 11968.

9. That at all times hereinafter mentioned, there existed a sidewalk at the premises known as 70 Jobs Lane, Southampton, New York 11968.

10. That at all times hereinafter mentioned, the defendant, Lillywhite, owned, maintained and controlled the sidewalk described in paragraph 9.

11. That at all times hereinafter mentioned, the defendant, Elliman, maintained and controlled the sidewalk described in paragraph 9.

12. That at all times hereinafter mentioned, the defendant, Lillywhite, was under a duty to maintain the premises and the sidewalk hereinabove described in paragraph 9 in order to keep the sidewalk in a safe condition for use by the public in general.

13. That at all times hereinafter mentioned, the defendant, Elliman, was under a duty to maintain the premises and the sidewalk hereinabove described in paragraph 7 in order to keep the sidewalk in a safe condition for use by the public in general.

14. That on February 7, 2014 at approximately 11:00 a.m., on the sidewalk in front of the premises, 70 Jobs Lane, Southampton, New York 11968, the plaintiff, was caused to be precipitated to the ground due to snow and ice that had accumulated on the sidewalk of the premises and sustain serious and permanent disabling injuries due to the negligence of the defendants, their agents, servants and/or employees.

15. Defendants, their agents, servants and/or employees negligently and carelessly failed to properly clear snow and ice from the aforesaid sidewalk, failed to salt or sand the area and created the condition as it existed and created the condition on the sidewalk, causing plaintiff to sustain serious injuries.

16. Defendants were further negligent in failing to exercise care and maintain said location and render same in a reasonable and safe condition for use by those lawfully on the premises.

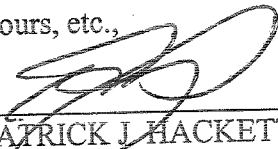
17. That the accident was caused solely as a result of the negligence of the defendants, and/or their agents, servants and/or employees and each of them, without any negligence on the parts of the plaintiff contributing thereto.

18. That by reason of the foregoing, the plaintiff has been damaged in a sum that exceeds the jurisdictional limits of all lower courts.

WHEREFORE, plaintiff demands judgment against the defendants in a sum that exceeds the jurisdictional limits of all lower courts, together with the costs and disbursements of this action.

Dated: Garden City, New York
April 14, 2014

Yours, etc.,



PATRICK J. HACKETT

Attorney for Plaintiff

585 Stewart Avenue, Suite 546
Garden City, New York 11530
(516) 248-8877

STATE OF NEW YORK)
)
COUNTY OF NASSAU)

ATTORNEY VERIFICATION

PATRICK J. HACKETT, an attorney duly admitted to practice in the courts of New York State, affirms the truth of the following upon information and belief, under the penalties of perjury:

I am the attorney for the plaintiff herein; I have read the annexed **COMPLAINT** and know the contents thereof and the same are true to my knowledge, except those matters therein which are stated to be alleged on information and belief, and as to those matters, I believe them to be true.

My belief as to those matters therein not stated upon knowledge, is based upon the following: Information from clients, conversations, correspondence and data contained in Affirmant's file concerning this litigation.

The reason I make this affirmation instead of plaintiff is because plaintiff does not reside in the county where Affirmant maintains his law office.

Dated: Garden City, New York
April 14, 2014



PATRICK J. HACKETT

Index No.:
SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

PETER MERGENTHALER,

Plaintiff(s),

-against-

SUSAN F. LILLYWHITE and DOUGLAS ELLIMAN REAL ESTATE,

Defendant(s).

SUMMONS & VERIFIED COMPLAINT

PATRICK J. HACKETT, ESQ.
ATTORNEY FOR PLAINTIFF (S)
OFFICE AND P.O. ADDRESS
585 STEWART AVENUE, SUITE 546
GARDEN CITY, NEW YORK 11530
(516) 248-8877

To:

Signature (Rule 130-1.1a)

Attorney(s) for:

Print name beneath

Service of a copy of the within

Is hereby admitted.

Dated,

Attorney(s) for

Please take notice

☐ NOTICE OF ENTRY

That the within is a (certified) true copy of an Order duly entered in the office of the Clerk of the within named court on

☐ NOTICE OF SETTLEMENT

That a/an _____, of which the within is a true copy, will be presented for settlement to the Honorable _____, one of the Justices of the within named court, at _____, New York, on the _____ Day of _____, at 9:30 a.m.

Dated,

Yours, etc.,

PATRICK J. HACKETT, ESQ.
ATTORNEY FOR PLAINTIFF(S)
OFFICE AND P.O. ADDRESS
585 STEWART AVENUE, SUITE 546
GARDEN CITY, NEW YORK 11530
(516) 248-8877

SUFFOLK COUNTY CLERK
JUDITH A. FASCAL
2014 APR 15 PM 12:45

To:

Attorney(s) for